

No.

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# **Supreme Court of the United States**

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**CHAD ALAN SODERMAN,**

*Petitioner,*

**vs.**

**UNITED STATES OF AMERICA,**

*Respondent.*

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**ON PETITION FOR A WRIT OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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## **APPENDIX**

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**COMES NOW PETITIONER Chad Alan Soderman** and submits the attached appendix pursuant to Supreme Court Rules.

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**Chad Alan Soderman**  
**Petitioner**  
44905-013  
9595 West Quincy Avenue  
Littleton, CO 80123

Date: \_\_\_\_\_

**APPENDIX A**  
**ORDER & JUDGMENT OF THE COURT OF APPEALS**  
**FOR THE EIGHTH CIRCUIT**  
**DATED 12-21-20**

## United States v. Soderman

United States Court of Appeals for the Eighth Circuit  
September 25, 2020, Submitted; December 21, 2020, Filed  
No. 19-2879

### Reporter

983 F.3d 369 \*; 2020 U.S. App. LEXIS 39884 \*\*; 2020 WL 7483576

United States of America, Plaintiff - Appellee v.  
Chad Alan Soderman, Defendant - Appellant

Opinion by: WOLLMAN

**Subsequent History:** Rehearing denied by, En banc, Rehearing denied by United States v. Soderman, 2021 U.S. App. LEXIS 2198 (8th Cir., Jan. 26, 2021)

**Prior History:** [\*\*1] Appeal from United States District Court for the Southern District of Iowa - Council Bluffs.

**Counsel:** For United States of America, Plaintiff - Appellee: Michael Brian Duffy, Richard E. Rothrock, Assistant U.S. Attorney, U.S. Attorney's Office, Council Bluffs, IA.

For Chad Alan Soderman, Defendant - Appellant: Christopher James Roth, Guy Kriss Weinstein, Roth & Weinstein, Omaha, NE.

Chad Alan Soderman, Defendant - Appellant, Pro se, Littleton, CO.

**Judges:** Before KELLY, WOLLMAN, and STRAS, Circuit Judges.

### Opinion

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[\*372] WOLLMAN, Circuit Judge.

Chad Alan Soderman entered conditional pleas of guilty to possession with intent to distribute controlled substances in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A) and possession of a firearm in furtherance of drug trafficking in violation of 18 U.S.C. § 924(c)(1)(A)(I). On appeal, Soderman contends that the district court<sup>1</sup> erred in denying his motion to suppress evidence obtained from his seized vehicle and his statements made during the traffic stop. We affirm.

#### I. Background

At approximately 7:30 a.m., July 7, 2018, Iowa State Trooper Matthew Raes pulled Soderman over for driving seventeen miles per hour above the speed limit on Interstate 80 near Council Bluffs, Iowa. Soderman appeared unkempt, had an unpleasant body odor, and was [\*\*2] nervously tapping his steering wheel. Raes observed two large duffel bags, aftermarket wires, snacks, and energy drinks within the vehicle's passenger compartment. Raes asked Soderman to exit his vehicle and sit in

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<sup>1</sup> The Honorable Rebecca Goodgame Ebinger, United States District Judge for the Southern District of Iowa.

the front seat of the patrol car, which Soderman did after demonstrating some initial reluctance to doing so. Soderman told Raes that he was traveling from Colorado to Minnesota to visit his father and dying stepmother.

While completing a records check, Raes discovered that Soderman's Colorado driver's [\*373] license had been suspended for unpaid child support. Soderman disputed the suspension and became more agitated, repeatedly stating that he had made the required support payments. Believing that he had observed indicia of drug trafficking, Raes called Council Bluffs Police Officer Kaila Merchant, who was trained in drug interdiction and had worked as a law enforcement officer for approximately eight years, to obtain a more experienced assessment. Because he could not lawfully continue to drive with a suspended license, Soderman called a tow truck company and his stepmother, demanding that she immediately drive to Iowa to meet him.

Officer Merchant arrived before the arrival of [\*\*3] the Soderman-summoned tow truck. Like Raes, Merchant also observed Soderman's behavior and appearance and viewed the contents of his vehicle's passenger compartment. Because Soderman was confused about his exact location, he handed his phone to Merchant so that she could provide his father with directions. During her conversation with him, Merchant asked Soderman's father if Soderman had been involved in drug trafficking, to which Soderman's father responded either, "not for a long time," or, "well not recently." Although Soderman's father stated that they had previously discussed an unspecified date visit, he said that he did not know that Soderman was on his way to Minnesota at the moment. In response to Merchant's query, Soderman told her he had had a problem with drugs in the past but had been clean for years. He admitted to having smoked marijuana in the car while in Colorado.

Based on her observations and law enforcement experience, Merchant concluded that she had

probable cause to believe that there would be evidence of drug paraphernalia within the car. She decided to seize the vehicle and requested a second tow truck. Raes issued Soderman tickets for speeding and for driving [\*\*4] with a suspended license. Upon the arrival of the Soderman-requested tow truck, Merchant informed the driver that she intended to use a different towing company, whereupon the tow truck departed. Shortly thereafter—and seventy-five minutes after the traffic stop began—Soderman walked away from the scene before the second tow truck arrived, leaving his vehicle with Raes and Merchant. The Merchant-summoned tow truck arrived and towed Soderman's car to the impound lot. Merchant submitted to a state judge the application and the affidavit needed to obtain a search warrant, but mistakenly failed to submit the required warrant itself. Believing that she had obtained a valid warrant, Merchant searched Soderman's vehicle, discovering methamphetamine, marijuana, a loaded firearm, magazines and ammunition, and a digital scale in the trunk.

Arguing that the warrant was invalid, Soderman moved to suppress the evidence obtained from his vehicle, as well as the statements that he made during the traffic stop. Following the district court's denial of the motion, Soderman entered conditional guilty pleas and was sentenced to 180 months' imprisonment.

## II. Discussion

"We review the denial of a motion to [\*\*5] suppress de novo but review underlying factual determinations for clear error, giving 'due weight' to the inferences of the district court and law enforcement officials." United States v. Robbins, 682 F.3d 1111, 1115 (8th Cir. 2012) (quoting United States v. Replogle, 301 F.3d 937, 938 (8th Cir. 2002)). "We will affirm the denial of a motion to suppress unless the district court's decision was unsupported by substantial evidence, was based on an erroneous interpretation of applicable law, or was [\*374] clearly mistaken in light of the entire record." United States v. Murillo-Salgado, 854 F.3d

407, 414 (8th Cir. 2017) (citing United States v. Woods, 829 F.3d 675, 679 (8th Cir. 2016)). We may affirm the denial of a motion to suppress on any ground that the record supports. Id.

#### A. Traffic Stop

Soderman first argues that Raes unlawfully extended the initially valid traffic stop in violation of Rodriguez v. United States, 575 U.S. 348, 135 S. Ct. 1609, 191 L. Ed. 2d 492 (2015), thereby giving Merchant time to arrive on the scene, develop probable cause, and seize the vehicle.

Because it is subject to Fourth Amendment protections against unreasonable searches and seizures, a traffic stop must be supported by either reasonable suspicion or probable cause. United States v. Chartier, 772 F.3d 539, 543 (8th Cir. 2014). A constitutionally permissible traffic stop becomes unlawful when its length exceeds the time needed to attend to the stop's "mission" and "related safety concerns." Rodriguez, 575 U.S. at 354 (internal citations omitted). An officer may lawfully continue a traffic stop until "tasks tied to the traffic infraction [\*\*6] are—or reasonably should have been—completed." Id. When complications arise "in carrying out the traffic-related purposes of the stop, . . . police may reasonably detain a driver for a longer duration than when a stop is strictly routine." United States v. Olivera-Mendez, 484 F.3d 505, 510 (8th Cir. 2007). To address related safety concerns, an officer may take actions to "ensur[e] that vehicles on the road are operated safely and responsibly," including checking the driver's license. Rodriguez, 575 U.S. at 355. But without reasonable suspicion, an officer may not conduct unrelated checks that extend the stop beyond the time reasonably required to complete its original mission. Id.

Raes's discovery that Soderman's driver's license had been suspended justifiably extended the lawful scope of the traffic stop because of Soderman's legal inability to remove the vehicle from the scene and the consequential need for a licensed driver or a tow truck to do so. See United States v. Ovando-

Garzo, 752 F.3d 1161, 1164 (8th Cir. 2014) (concluding that when none of the occupants of a vehicle were licensed to drive, the officer was permitted "to engage in a community caretaking function of safely moving the vehicle and its occupants from the side of the road"). Raes expressed to Soderman his concern about the dangerousness of the vehicle's road-shoulder [\*\*7] placement in light of the interstate's curvature at that point. The confluence of Soderman's decision to call a tow truck, Merchant's arrival, and, as discussed below, her development of probable cause to seize the vehicle vitiates any claim that the stop was unlawfully prolonged.

Contrary to Soderman's arguments, United States v. Peralez, 526 F.3d 1115 (8th Cir. 2008), is inapposite. In Peralez, an officer found nothing "unusual or out of place" with the driver's license or vehicle registration; the stop was delayed entirely because of the officer's drug-interdiction questioning. Id. at 1120. Here, unlike in Peralez, the length of the stop was directly related to the community caretaking function of ensuring the safe removal of the vehicle and not to unrelated questioning or to the awaiting of another officer's arrival. Cf. United States v. Davis, 943 F.3d 1129, 1133 (8th Cir. 2019) ("This stop is easily distinguishable [from Peralez] and involves traditional bases of reasonable suspicion justifying an extension.").

#### B. Vehicle Seizure & Search

Soderman next argues that Merchant lacked probable cause to search and seize [\*\*375] the vehicle and that the evidence obtained from within the vehicle should therefore have been suppressed. In the absence of a judicially authorized warrant, we address whether Merchant had independent [\*\*8] probable cause to conduct a warrantless search of Soderman's vehicle under the automobile exception.

Although a warrantless search usually constitutes a *per se* Fourth Amendment violation, the automobile exception to the Fourth Amendment's warrant

requirement permits the warrantless search or seizure of a vehicle by officers possessing probable cause to do so. Chambers v. Maroney, 399 U.S. 42, 51-52, 90 S. Ct. 1975, 26 L. Ed. 2d 419 (1970). "Probable cause exists when, given the totality of the circumstances, a reasonable person could believe there is a fair probability that contraband or evidence of a crime would be found in a particular place." Murillo-Salgado, 854 F.3d at 418 (quoting United States v. Wells, 347 F.3d 280, 287 (8th Cir. 2003)). A combination of otherwise innocent factors may create probable cause. Illinois v. Gates, 462 U.S. 213, 243 n.13, 103 S. Ct. 2317, 76 L. Ed. 2d 527 (1983). Because "[p]robable cause is a practical and common-sensical standard," "an officer may draw inferences based on his own experience" to determine whether probable cause exists. Murillo-Salgado, 854 F.3d at 418 (internal quotation marks and citations omitted).

Merchant developed probable cause to believe Soderman's car contained evidence of drug trafficking while Raes was addressing the issue of Soderman's suspended license and related vehicle removal. As set forth in her police report, Merchant saw the aftermarket wires in Soderman's vehicle, from which she inferred that the vehicle might have been manipulated [\*\*9] to conceal drugs. Merchant also saw Soderman's snacks and energy drinks, which, in combination with his disheveled appearance and malodorous state, indicated that he might have been driving for a long period of time without stopping for food or a shower. See United States v. Mayo, 627 F.3d 709, 711, 714 (8th Cir. 2010) (police had probable cause to search vehicle in part because its "lived-in" look could indicate the "hard travel" common to drug couriers who drive for long periods without stopping").

Soderman's conduct during the stop also contributed to Merchant's belief that there was probable cause to search the vehicle. The dashcam recording from Raes's patrol car indicates that throughout the stop Soderman was agitated, nervous, breathing heavily, and confused about his location. See id. at 714 (police had probable cause

to search vehicle in part because of defendants' nervousness). Lacking a valid license, Soderman stated that he intended to tow his vehicle from Council Bluffs to an unspecified location near the Minnesota-Iowa border, where he anticipated being picked up by his father and his accompanying stepmother, who Soderman said was dying and who had been released from the hospital three days prior. Soderman also insisted on not being separated [\*\*10] from his vehicle. Moreover, Soderman's father expressed surprise that Soderman was en route and acknowledged that Soderman had a history of drug trafficking. See United States v. Hill, 386 F.3d 855, 858 (8th Cir. 2004) (police had probable cause to search vehicle in part because of defendant's "reputation for engaging in drug activity"); cf. Mayo, 627 F.3d at 714 (police had probable cause to search vehicle in part because of defendants' inconsistent travel stories). The cash that Soderman carried was less than the amount we have found sufficient to establish probable cause, but when considered with the factors noted above, his bulging wallet contributed [\*\*376] to the circumstances giving rise to probable cause.

The automobile exception may apply even when there is little to no chance that the vehicle will be moved or its contents destroyed. Cady v. Dombrowski, 413 U.S. 433, 441-42, 93 S. Ct. 2523, 37 L. Ed. 2d 706 (1973). Officers armed with probable cause "may conduct a warrantless search of the vehicle, even after it has been impounded and is in police custody." United States v. Bettis, 946 F.3d 1024, 1030 (8th Cir. 2020) (quoting Michigan v. Thomas, 458 U.S. 259, 261, 102 S. Ct. 3079, 73 L. Ed. 2d 750 (1982) (per curiam)). The automobile exception continues to apply to impounded vehicles when an immediate search could have been conducted on the scene. Brewer v. Wolff, 529 F.2d 787, 792 (8th Cir. 1976) (interpreting Texas v. White, 423 U.S. 67, 96 S. Ct. 304, 46 L. Ed. 2d 209 (1975)).

We therefore reject Soderman's argument that, even if she had probable cause to seize Soderman's car,

Merchant [\*\*11] was required to obtain a warrant prior to searching the impounded vehicle. See Bettis, 946 F.3d at 1030. Merchant intended to obtain confirmation from a magistrate that she had probable cause prior to conducting a search. The judge confirmed her probable cause determination by signing her application and affidavit, notwithstanding the absence of a warrant. Practical considerations supported Merchant's decision to move the vehicle prior to the search. Merchant's dashcam recordings show numerous semi-trucks and passenger vehicles passing by the three shoulder-parked vehicles during the stop. See id. (noting that the officers were not required to obtain a warrant before properly "conduct[ing] a more thorough search than flashlights on the shoulder of a busy highway allowed"). We therefore agree with the district court that the automobile exception to the warrant requirement permitted Merchant to conduct a warrantless search of Soderman's car following its removal from the scene.

#### C. Miranda Warning

Soderman next argues that he was subjected to a custodial interrogation during the traffic stop, that he never received a Miranda warning, and that his statements made during the stop should thus be suppressed.

Miranda [\*\*12] warnings are required only when a person is in custody, because they are intended to "protect the individual against the coercive nature of custodial interrogation." United States v. Thomas, 664 F.3d 217, 222 (8th Cir. 2011) (quoting J.D.B. v. North Carolina, 564 U.S. 261, 270, 131 S. Ct. 2394, 180 L. Ed. 2d 310 (2011)). "Whether a suspect is 'in custody' is an objective inquiry," where we assess both "the circumstances surrounding the interrogation" and "whether a reasonable person would have felt at liberty to end the interrogation and leave." Id. (citing J.D.B., 564 U.S. at 270). A stop is not custodial if it does not constrain the defendant "to the degree associated with an arrest." United States v. Pelayo-Ruelas, 345 F.3d 589, 593 (8th Cir. 2003). Although stopped drivers are detained, they are generally not in

custody during the roadside questioning that is permitted during a traffic stop. Berkemer v. McCarthy, 468 U.S. 420, 439-40, 104 S. Ct. 3138, 82 L. Ed. 2d 317 (1984).

We conclude that Soderman was not in custody during the traffic stop. See United States v. Holleman, 743 F.3d 1152, 1159 (8th Cir. 2014) (listing factors—like whether the suspect was free to move and to leave, whether the officers used deceptive stratagems, and whether the suspect was under arrest—to consider when determining [\*\*377] whether a person is in custody (quoting United States v. Griffin, 922 F.2d 1343, 1349 (8th Cir. 1990)). Although Soderman was temporarily detained, only two officers were present during the stop. See Berkemer, 468 U.S. at 438-39 ("The fact that the detained motorist typically is confronted by only one or at most two policemen further mutes his sense [\*\*13] of vulnerability."). And although Raes asked Soderman to sit in the patrol car during the stop, Soderman was neither handcuffed nor forced to sit in the back seat. He thus retained a degree of free movement, as reflected by his frequent gestures, body movement, and statements, and was not constrained to the degree associated with a formal arrest. See United States v. Jones, 269 F.3d 919, 924 (8th Cir. 2001) ("[A] police officer, incident to investigating a lawful traffic stop, may . . . request that the driver wait in the patrol car . . ."). Throughout the stop, Raes offered to take Soderman to a gas station and at no time said that Soderman would continue to be detained after the stop concluded. Although Merchant suggested that she would call a drug dog, Soderman was free to leave once the traffic tickets were issued. The district court thus properly denied the motion to suppress his statements.

The judgment is affirmed.

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**APPENDIX B**  
**JUDGMENT OF THE UNITED STATES DISTRICT COURT**  
**FOR THE SOUTHERN DISTRICT OF IOWA**  
**ENTERED 8-20-19**



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF IOWA

UNITED STATES OF AMERICA

v.

Chad Alan Soderman

JUDGMENT IN A CRIMINAL CASE

Case Number: 1:18-CR-00044-001

USM Number: 44905-013

Christopher J. Roth

Defendant's Attorney

THE DEFENDANT:

☒ pleaded guilty to count(s) One and Three of the Indictment filed on July 31, 2018.

☐ pleaded nolo contendere to count(s) \_\_\_\_\_  
which was accepted by the court.

☐ was found guilty on count(s) \_\_\_\_\_  
after a plea of not guilty.

The defendant is adjudicated guilty of these offenses:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. § 841(a)(1), 841(b)(1)(A)	Possession with Intent to Distribute at Least 50 Grams of Methamphetamine and Marijuana	07/07/2018	One
18 U.S.C. § 924(c)(1)(A)(i)	Possession of a Firearm in Furtherance of Drug Trafficking	07/07/2018	Three

☐ See additional count(s) on page 2

The defendant is sentenced as provided in pages 2 through 7 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

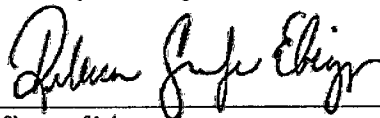
☐ The defendant has been found not guilty on count(s) \_\_\_\_\_

☒ Count(s) Two ☒ is ☐ are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States Attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and United States attorney of material changes in economic circumstances.

August 20, 2019

Date of Imposition of Judgment



Signature of Judge

Rebecca Goodgame Ebinger, U.S. District Judge

Name of Judge

Title of Judge

August 20, 2019

Date

Soderman Appendix B1

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### IMPRISONMENT

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a total term of:

120 months as to Count One, plus 60 months as to Count Three of the Indictment filed on July 31, 2018, to be served consecutively, for a total of 180 months.

☒ The court makes the following recommendations to the Bureau of Prisons:

That the defendant be placed at FCI Sandstone. Additionally, that he be afforded the opportunity to participate in vocational training related to HVAC and/or carpentry, as well as the 500-hour Residential Drug Abuse Program.

☒ The defendant is remanded to the custody of the United States Marshal.

☐ The defendant is remanded to the custody of the United States Marshal for surrender to the ICE detainer.

☐ The defendant shall surrender to the United States Marshal for this district:

☐ at \_\_\_\_\_ ☐ a.m. ☐ p.m. on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons:

☐ before \_\_\_\_\_ on \_\_\_\_\_

☐ as notified by the United States Marshal.

☐ as notified by the Probation or Pretrial Services Office.

### RETURN

I have executed this judgment as follows:

Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_

a \_\_\_\_\_, with a certified copy of this judgment.

\_\_\_\_\_  
UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

**Soderman Appendix B2**

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### SUPERVISED RELEASE

Upon release from imprisonment, you will be on supervised release for a term of:

Five years as to each of Counts One and Three of the Indictment filed on July 31, 2018, to be served concurrently.

### MANDATORY CONDITIONS

1. You must not commit another federal, state or local crime.
2. You must not unlawfully possess a controlled substance.
3. You must refrain from any unlawful use of a controlled substance. You must submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as determined by the court.
  - ☐ The above drug testing condition is suspended, based on the court's determination that you pose a low risk of future substance abuse. *(check if applicable)*
4. ☐ You must make restitution in accordance with 18 U.S.C. §§ 3663 and 3663A or any other statute authorizing a sentence of restitution. *(check if applicable)*
5. ☒ You must cooperate in the collection of DNA as directed by the probation officer. *(check if applicable)*
6. ☐ You must comply with the requirements of the Sex Offender Registration and Notification Act (34 U.S.C. § 20901, *et seq.*) as directed by the probation officer, the Bureau of Prisons, or any state sex offender registration agency in which you reside, work, are a student, or were convicted of a qualifying offense. *(check if applicable)*
7. ☐ You must participate in an approved program for domestic violence. *(check if applicable)*

You must comply with the standard conditions that have been adopted by this court as well as with any other conditions on the attached page.

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### STANDARD CONDITIONS OF SUPERVISION

As part of your supervised release, you must comply with the following standard conditions of supervision. These conditions are imposed because they establish the basic expectations for your behavior while on supervision and identify the minimum tools needed by probation officers to keep informed, report to the court about, and bring about improvements in your conduct and condition.

1. You must report to the probation office in the federal judicial district where you are authorized to reside within 72 hours of your release from imprisonment, unless the probation officer instructs you to report to a different probation office or within a different time frame.
2. After initially reporting to the probation office, you will receive instructions from the court or the probation officer about how and when you must report to the probation officer, and you must report to the probation officer as instructed.
3. You must not knowingly leave the federal judicial district where you are authorized to reside without first getting permission from the court or the probation officer.
4. You must answer truthfully the questions asked by your probation officer.
5. You must live at a place approved by the probation officer. If you plan to change where you live or anything about your living arrangements (such as the people you live with), you must notify the probation officer at least 10 days before the change. If notifying the probation officer in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
6. You must allow the probation officer to visit you at any time at your home or elsewhere, and you must permit the probation officer to take any items prohibited by the conditions of your supervision that he or she observes in plain view.
7. You must work full time (at least 30 hours per week) at a lawful type of employment, unless the probation officer excuses you from doing so. If you do not have full-time employment you must try to find full-time employment, unless the probation officer excuses you from doing so. If you plan to change where you work or anything about your work (such as your position or your job responsibilities), you must notify the probation officer at least 10 days before the change. If notifying the probation officer at least 10 days in advance is not possible due to unanticipated circumstances, you must notify the probation officer within 72 hours of becoming aware of a change or expected change.
8. You must not communicate or interact with someone you know is engaged in criminal activity. If you know someone has been convicted of a felony, you must not knowingly communicate or interact with that person without first getting the permission of the probation officer.
9. If you are arrested or questioned by a law enforcement officer, you must notify the probation officer within 72 hours.
10. You must not own, possess, or have access to a firearm, ammunition, destructive device, or dangerous weapon (i.e., anything that was designed, or was modified for, the specific purpose of causing bodily injury or death to another person such as nunchakus or tasers).
11. You must not act or make any agreement with a law enforcement agency to act as a confidential human source or informant without first getting the permission of the court.
12. If the probation officer determines that you pose a risk to another person (including an organization), the probation officer may require you to notify the person about the risk and you must comply with that instruction. The probation officer may contact the person and confirm that you have notified the person about the risk.
13. You must follow the instructions of the probation officer related to the conditions of supervision.

### U.S. Probation Office Use Only

A U.S. probation officer has instructed me on the conditions specified by the court and has provided me with a written copy of this judgment containing these conditions. For further information regarding these conditions, see *Overview of Probation and Supervised Release Conditions*, available at: [www.uscourts.gov](http://www.uscourts.gov).

Defendant's Signature \_\_\_\_\_

Date \_\_\_\_\_

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### **SPECIAL CONDITIONS OF SUPERVISION**

You must participate in a cognitive behavioral treatment program, which may include journaling and other curriculum requirements, as directed by the U.S. Probation Officer.

You must submit to a mental health evaluation. If treatment is recommended, you must participate in an approved treatment program and abide by all supplemental conditions of treatment. Participation may include inpatient/outpatient treatment and/or compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment.

You must participate in a program of testing and/or treatment for substance abuse, as directed by the Probation Officer, until such time as the defendant is released from the program by the Probation Office. At the direction of the probation office, you must receive a substance abuse evaluation and participate in inpatient and/or outpatient treatment, as recommended. Participation may also include compliance with a medication regimen. You will contribute to the costs of services rendered (co-payment) based on ability to pay or availability of third-party payment. You must not use alcohol and/or other intoxicants during the course of supervision.

You must comply with the terms and conditions ordered by the Department of Health and Human Services for the State of Colorado, in case identification number 03938448457A, requiring payments toward child support arrears for M.B.

You will submit to a search of your person, property, residence, adjacent structures, office, vehicle, papers, computers (as defined in 18 U.S.C. § 1030(e)(1)), and other electronic communications or data storage devices or media, conducted by a U.S. Probation Officer. Failure to submit to a search may be grounds for revocation. You must warn any other residents or occupants that the premises and/or vehicle may be subject to searches pursuant to this condition. An officer may conduct a search pursuant to this condition only when reasonable suspicion exists that you have violated a condition of your release and/or that the area(s) or item(s) to be searched contain evidence of this violation or contain contraband. Any search must be conducted at a reasonable time and in a reasonable manner. This condition may be invoked with or without the assistance of law enforcement, including the U.S. Marshals Service.

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

- ☐ Pursuant to 18 U.S.C. § 3573, upon the motion of the government, the Court hereby remits the defendant's Special Penalty Assessment; the fee is waived and no payment is required.

	<u>Assessment</u>	<u>JVTA Assessment *</u>	<u>Fine</u>	<u>Restitution</u>
<b>TOTALS</b>	\$ 200.00	\$ 0.00	\$ 0.00	\$0.00

- ☐ The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case (AO 245C)* will be entered after such determination.
- ☐ The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid.

Name of Payee	Total Loss**	Restitution Ordered	Priority or Percentage
<b>TOTALS</b>		\$0.00	\$0.00

- ☐ Restitution amount ordered pursuant to plea agreement \$ \_\_\_\_\_
- ☐ The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- ☐ The court determined that the defendant does not have the ability to pay interest and it is ordered that:
- ☐ the interest requirement is waived for the ☐ fine ☐ restitution.
- ☐ the interest requirement for the ☐ fine ☐ restitution is modified as follows:

\* Justice for Victims of Trafficking Act of 2015, Pub. L. No. 114-22.

\*\* Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

DEFENDANT: Chad Alan Soderman  
CASE NUMBER: 1:18-CR-00044-001

### SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties is due as follows:

- A ☒ Lump sum payment of \$ 200.00 due immediately, balance due  
☐ not later than \_\_\_\_\_, or  
☒ in accordance ☐ C, ☐ D, ☐ E, or ☒ F below; or
- B ☐ Payment to begin immediately (may be combined with ☐ C, ☐ D, or ☐ F below); or
- C ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after the date of this judgment; or
- D ☐ Payment in equal \_\_\_\_\_ (e.g., weekly, monthly, quarterly) installments of \$ \_\_\_\_\_ over a period of \_\_\_\_\_ (e.g., months or years), to commence \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment to a term of supervision; or
- E ☐ Payment during the term of supervised release will commence within \_\_\_\_\_ (e.g., 30 or 60 days) after release from imprisonment. The court will set the payment plan based on an assessment of the defendant's ability to pay at that time; or
- F ☒ Special instructions regarding the payment of criminal monetary penalties:  
All criminal monetary payments are to be made to the Clerk's Office, U.S. District Court, P.O. Box 9344, Des Moines, IA. 50306-9344.  
While on supervised release, you shall cooperate with the Probation Officer in developing a monthly payment plan consistent with a schedule of allowable expenses provided by the Probation Office.

Unless the court has expressly ordered otherwise, if this judgment imposes imprisonment, payment of criminal monetary penalties is due during the period of imprisonment. All criminal monetary penalties, except those payments made through the Federal Bureau of Prisons' Inmate Financial Responsibility Program, are made to the clerk of the court.

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

☐ Joint and Several

Defendant and Co-Defendant Names and Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate.

☐ The defendant shall pay the cost of prosecution.

☐ The defendant shall pay the following court cost(s):

☒ The defendant shall forfeit the defendant's interest in the following property to the United States:

A loaded, Kel-Tec, P11, nine-millimeter pistol (serial number AP365) and ammunition, as listed in the indictment filed on July 31, 2018, and agreed to in the written plea agreement.

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) JVA assessment, and (8) costs, including cost of prosecution and court costs.

**Soderman Appendix B7**

**APPENDIX C**  
**ORDER OF THE COURT OF APPEALS**  
**FOR THE EIGHTH CIRCUIT**  
**DATED 1-26-21**



**United States v. Soderman**

United States Court of Appeals for the Eighth Circuit

January 26, 2021, Decided

No: 19-2879

**Reporter**

2021 U.S. App. LEXIS 2198 \*

United States of America, Appellee v. Chad Alan  
Soderman, Appellant

The petition for rehearing en banc is denied. The  
petition for rehearing by the panel is also denied.

January 26, 2021

**Prior History:** [\*1] Appeal from U.S. District  
Court for the Southern District of Iowa - Council  
Bluffs. (1:18-cr-00044-RGE-1).

United States v. Soderman, 983 F.3d 369, 2020  
U.S. App. LEXIS 39884 (8th Cir. Iowa, Dec. 21,  
2020)

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End of Document

**Counsel:** For United States of America, Plaintiff -  
Appellee: Michael Brian Duffy, Assistant U.S.  
Attorney, Richard E. Rothrock, Assistant U.S.  
Attorney, U.S. Attorney's Office, Council Bluffs,  
IA.

For Chad Alan Soderman, Defendant - Appellant:  
Christopher James Roth, Guy Kriss Weinstein,  
Roth & Weinstein, Omaha, NE.

Chad Alan Soderman, Defendant - Appellant, Pro  
se, Littleton, CO.

**Opinion**

**ORDER**

**APPENDIX D**  
**USDC ORDER DENYING MOTION TO SUPPRESS**  
**ENTERED 1-17-19**

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CHAD ALLEN SODERMAN,

Defendant.

No. 1:18-cr-00044-RGE-HCA

**ORDER DENYING DEFENDANT'S  
MOTION TO SUPPRESS EVIDENCE**

**I. INTRODUCTION**

An Iowa state trooper pulled over Defendant Chad Alan Soderman for speeding. During the traffic stop, the trooper discovered Soderman was driving with a suspended license. As the trooper and another responding officer arranged for Soderman's car to be towed, they developed suspicion Soderman was trafficking drugs. Soderman's car was towed and impounded. The officer prepared a warrant application to search Soderman's car and a judge signed it. The officer searched the car. Later, the officer discovered the judge had signed only the application for a warrant and not an actual warrant. Soderman moves to suppress the statements he made during the stop and the contraband found in his car. For the reasons set forth below, the Court denies Soderman's motion.

**II. BACKGROUND**

Before the Court is Soderman's Motion to Suppress. ECF No. 24. The matter came before the Court for hearing on December 17, 2018. Hr'g Mins. Def.'s Mot. Suppress, ECF No. 34. Attorney Christopher J. Roth appeared on behalf of Soderman. *Id.* Assistant United States Attorney Michael Brian Duffy appeared on behalf of the Government. *Id.* The Court heard the testimony of Iowa State Trooper Matthew Raes, Council Bluffs Police Officer Kaila Merchant, and

Iowa District Associate Judge Charles Fagan. *Id.*; see also Witness List, ECF No. 34-2. The Court received exhibits from both parties, including video of the traffic stop submitted by the Government. Ex. List, ECF No. 34-1; Gov't Exs. 1-6, ECF Nos. 36, 36-1 to 36-5; Def.'s Ex. 101, ECF No. 37-1.

The Court finds the following facts by a preponderance of the evidence for purpose of considering Soderman's motion. See *United States v. Matlock*, 415 U.S. 164, 177 n.14 (1974); accord *United States v. Long*, 797 F.3d 558, 570 (8th Cir. 2015).

Around 7:30 a.m. on Saturday, July 7, 2018, Soderman was pulled over by Iowa State Trooper Matthew Raes for going 72 miles per hour in a 55-miles-per-hour zone on Interstate 80 in Council Bluffs. As Raes approached the vehicle, Raes noticed Soderman was tapping his steering wheel nervously. Raes asked Soderman to step out of his car and sit in the patrol car while Raes checked Soderman's license. Soderman told Raes he was driving from Colorado to Minnesota to visit his father and terminally ill stepmother. Raes observed Soderman had an unpleasant odor, was unkempt, and had several snacks and energy drinks in his car. He also noticed two large duffel bags and aftermarket wires on the back seat and floor of the car.

Raes completed a records check on Soderman and discovered his license was suspended for unpaid child support. Soderman told Raes he was current on his child support payments and his license should not be suspended. Soderman showed Raes a bank statement on his phone to demonstrate his child support obligations were current. Raes informed Soderman he could not drive with a suspended license, his car would have to be towed and impounded, and Soderman could call the Colorado DMV on Monday to inquire about his suspended license. Raes told Soderman he could call a tow truck for him and drive him to a gas station nearby. Soderman expressed to Raes that he wished to arrange the towing himself and did not want Raes to arrange it for him.

Raes said he was going to step out of the car and speak to his supervisor. Raes instructed Soderman to stay in his patrol car. Soderman asked Raes if he was detained. Raes responded: "Yeah . . . [y]ou're operating without a Driver's License. You can go to jail for it, if you'd rather go to jail." When Raes stepped away from the vehicle, Soderman called his stepmother in Minnesota and urgently implored her to come to Iowa to pick him up. Soderman then called a local tow truck company and asked if they could tow his car to the border of Iowa and Minnesota, nearly 300 miles away. When Raes returned to his patrol car, Soderman told Raes he would travel as a passenger in the tow truck he called and would meet his parents on the road as they traveled from Minnesota.

Raes had worked as an Iowa state trooper for about three years at the time he pulled Soderman over. Raes testified he wanted to discuss what he perceived to be indicators of drug activity with a more experienced officer. Raes therefore called Council Bluffs Police Officer Kaila Merchant, who Raes knew had experience with narcotics trafficking, and asked her to assist. About twenty minutes after the initial stop, Merchant arrived. Merchant had worked as a law enforcement officer in New Hampshire for seven years and had joined the Council Bluffs Police Department about one year prior to the time of this traffic stop. In New Hampshire, Merchant had received training in drug interdiction.

Soderman told Merchant a tow truck was on its way. He said he planned to travel with the tow truck and then meet his father and stepmother on the way to Minnesota. Soderman began to describe his location to his father over the phone. Soderman stated, incorrectly, that his father could drive south on Interstate 35 from Minnesota to reach Council Bluffs. Merchant offered to speak to Soderman's father and give him directions. Soderman gave his phone to Merchant. Soderman's father told Merchant he did not know his son was on his way to visit. Merchant asked Soderman's father if Soderman had a history of drug trafficking. Soderman's father responded:

"Well, not recently." Merchant told Soderman's father to delay leaving Minnesota until she further assessed the situation. She said she would call Soderman's father back in a few minutes.

Merchant asked Soderman if he was transporting drugs. Soderman said he was not. Soderman told Merchant he had a problem with drugs in the past, but he had been clean for years. Soderman denied consent for Merchant to search his car. He said he was embarrassed about the contents of his car and did not want Merchant to see his belongings. He also told Merchant a search would be a violation of his rights. Merchant told Soderman they were in a "tough spot" because she perceived "red flags." Merchant told Soderman she had probable cause to apply for a search warrant to search his car and that she was going to call her sergeant for permission to do so. Merchant also told Soderman she would call for a dog to sniff his car. Soderman told Raes that he had recently smoked marijuana in his car and was concerned the dog would detect it. Merchant received permission from her supervisor to seize Soderman's car and to apply for a search warrant. Soderman left the scene. The entire stop lasted about one hour and fifteen minutes.

Merchant prepared an application for a search warrant. Although Merchant had applied for search warrants in New Hampshire, this application was the first she had completed in Council Bluffs. Merchant prepared the application from a template she downloaded from the police department's shared drive. The template lacked a warrant page. The application included an affidavit in support of the search warrant, in which Merchant listed reasons for finding probable cause, and a statement in which Merchant named the place to be searched. *See* Gov't Ex. 2, ECF No. 36-1 at 1-5. The statement naming the place to be searched included the license plate number and vehicle identification number of Soderman's car. *Id.* at 6-7. The warrant application also included an attachment listing the property to be seized. *Id.* at 8.

Merchant presented the warrant application to the Honorable Charles D. Fagan, District Associate Judge for the Fourth Judicial District of Iowa. Because it was outside normal

business hours, Merchant presented the warrant application to Judge Fagan at his home. Judge Fagan reviewed the application and signed the affidavit in support of probable cause and the statement of the place to be searched. *Id.* at 5, 7. Judge Fagan testified he found the warrant application was supported by probable cause. He did not realize the warrant itself was missing. After obtaining Judge Fagan's signature, Merchant searched Soderman's car. The search revealed methamphetamine, a loaded pistol, magazines and ammunition, and a digital scale. *Id.* at 10-11. Raes found Soderman at a nearby motel and arrested him.

A federal grand jury later indicted Soderman on three counts: 1) possession with intent to distribute a controlled substance in violation of 21 U.S.C. § 841(a)(1), (b)(1)(A); 2) prohibited person in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1),(3) and 924(a)(2); and 3) possession of a firearm in furtherance of drug trafficking in violation of 18 U.S.C. § 924(c)(1)(A). Redacted Indictment, ECF No. 2.

### **III. LEGAL STANDARDS**

Soderman moves to suppress evidence obtained from the traffic stop and the seizure and search of his vehicle as well as the statements he made during the traffic stop. ECF No. 24. Soderman argues the seizure and search of his vehicle violated his rights under the Fourth Amendment and the officer's questioning violated his rights under the Fifth Amendment. *Id.*; Def.'s Br. Supp. Def.'s Mot. Suppress, ECF No. 24-1.

#### **A. Fourth Amendment**

The Fourth Amendment to the United States Constitution provides:

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

U.S. Const. amend. IV. “[S]ubject only to a few specifically established and well delineated exceptions,” searches and seizures “without prior approval by judge or magistrate, are *per se* unreasonable under the Fourth Amendment.” *Minnesota v. Dickerson*, 508 U.S. 366, 372 (1993) (quoting *Katz v. United States*, 389 U.S. 347, 357 (1967)). Among those exceptions are temporary seizures of a person during a traffic stop when there is reasonable suspicion or probable cause, and the search and seizure of an automobile when there is probable cause.

A traffic stop is a seizure subject to the protections of the Fourth Amendment. *Delaware v. Prouse*, 440 U.S. 648, 653 (1979). “[A] traffic stop is reasonable if it is supported by either probable cause or an articulable and reasonable suspicion that a traffic violation has occurred.” *United States v. Chartier*, 772 F.3d 539, 543 (8th Cir. 2014) (quoting *United States v. Washington*, 455 F.3d 824, 826 (8th Cir. 2006)). “Reasonable suspicion exists when an ‘officer is aware of ‘particularized, objective facts, which, taken together with rational inferences from those facts, reasonably warrant suspicion that a crime is being committed.’” *United States v. Givens*, 763 F.3d 987, 989 (8th Cir. 2014) (quoting *United States v. Hollins*, 685 F.3d 703, 706 (8th Cir. 2012)).

Under the automobile exception, a warrantless search of an automobile is permitted when there is probable cause to believe the automobile contains evidence of criminal activity. *Carroll v. United States*, 267 U.S. 132, 158–59 (1925); accord *United States v. Davis*, 569 F.3d 813, 817–18 (8th Cir. 2009). “Probable cause exists when, given the totality of the circumstances, a reasonable person could believe there is a fair probability that contraband or evidence of a crime would be found in a particular place.” *United States v. Murillo-Salgado*, 854 F.3d 407, 418 (8th Cir. 2017) (quoting *United States v. Wells*, 347 F.3d 280, 287 (8th Cir. 2003)).



**B. Fifth Amendment**

The Fifth Amendment to the United States Constitution provides: “No person . . . shall be compelled in any criminal case to be a witness against himself.” U.S. Const. amend. V. “[T]he prosecution may not use statements . . . stemming from custodial interrogation of the defendant unless it” has warned the defendant “that he has a right to remain silent, that any statement he does make may be used as evidence against him, and that he has a right to the presence of an attorney.” *Miranda v. Arizona*, 384 U.S. 436, 444 (1966). A suspect is in custody when “there is a ‘formal arrest or restraint on freedom of movement’ of the degree associated with a formal arrest.” *California v. Beheler*, 463 U.S. 1121, 1125 (1983) (quoting *Oregon v. Mathiason*, 429 U.S. 492, 495 (1977)).

**IV. DISCUSSION**

Soderman asserts the contraband found in his car should be suppressed because his car was seized and searched in violation of the Fourth Amendment. Specifically, he argues officers impermissibly extended the traffic stop, and the impermissible extension resulted in the seizure and search of this car. ECF No. 24-1 at 4–8. Soderman also asserts his statements during the traffic stop should be suppressed because he was not read his *Miranda* rights and the statements’ admission at trial would violate the Fifth Amendment. *Id.* at 8–10.

First, the Court finds the officers validly extended the stop on reasonable suspicion of additional criminal activity. Second, the Court finds there was probable cause for Merchant to seize and search Soderman’s car, making the search lawful under the automobile exception to the Fourth Amendment’s warrant requirement. Finally, the Court finds Soderman was not in custody and *Miranda* warnings were not necessary. Thus, the Court denies the Soderman’s motion to suppress.

**A. Fourth Amendment: Search and Seizure of Vehicle**

**1. The extension of the traffic stop**

Soderman argues Raes and Merchant did not have reasonable suspicion to extend the traffic stop beyond its initial purpose. ECF No. 24-1 at 4. Without reasonable suspicion or probable cause, Soderman contends, a traffic stop is not reasonable and therefore is a violation of the Fourth Amendment. *Id.* at 5; *See Chartier*, 772 F.3d at 543. The Government argues the purpose of the stop legitimately shifted from addressing a speeding violation to addressing a suspended license to investigating suspected drug trafficking. Gov't's Br. Resp. Def.'s Mot. Suppress 5-6, ECF No. 32.

A traffic stop constitutes a seizure and must be supported by probable cause or reasonable suspicion. *Chartier*, 772 F.3d at 543. Authority for a traffic stop ends when matters connected to the traffic stop are completed. *Rodriguez v. United States*, 135 S. Ct. 1609, 1614 (2015). Running a driver's license for outstanding warrants is incident to an ordinary traffic stop. *Id.* at 1615; *see also United States v. Jones*, 269 F.3d 919, 924 (8th Cir. 2001) ("[A] police officer, incident to investigating a lawful traffic stop, may request the driver's license and registration . . . [and, among other things, may] request that the driver wait in the patrol car."). "[T]he tolerable duration of police inquiries in the traffic-stop context is determined by the seizure's 'mission' — to address the traffic violation that warranted the stop, and attend to related safety concerns." *Rodriguez*, 135 S. Ct. at 1614 (citation omitted). An "officer may ask the detainee a moderate number of questions . . . to try to obtain information confirming or dispelling the officer's suspicions." *Berkemer v. McCarty*, 468 U.S. 420, 439 (1984). Safety checks or investigations unrelated to the initial reason for the traffic stop may not prolong the stop, unless the officer has reasonable suspicion "ordinarily demanded to justify detaining an individual." *Id.* at 1615; *see also Illinois v. Caballes*, 543 U.S. 405, 408 (2005).

Here, the traffic stop lasted over one hour. Although one hour is a significant amount of time for a traffic stop, the “mission” of the stop evolved over its duration. *See Rodriguez*, 135 S. Ct. at 1614. The initial purpose of the traffic stop was to address a speeding violation. After Raes completed the records check on Soderman’s license, the stop’s purpose shifted to dealing with Soderman’s suspended license. And while the officers discussed Soderman’s suspended license and arranged for his car to be towed, they developed a reasonable, articulable suspicion of drug trafficking. *See Givens*, 763 F.3d at 989.

Notably, Soderman’s father indicated to Merchant that Soderman had been involved in drug trafficking in the past. Merchant testified to other reasons for her suspicion of drug trafficking, which included: Soderman’s nervousness, his large duffel bags, his dirty and disheveled appearance, his father not knowing that Soderman was on his way to visit, the highly caffeinated beverages in his car, his admission about his use of “hard drugs” in the past, his insistent requests to smoke a cigarette, the large amount of cash in his wallet, and his reporting that he made \$50.00 an hour as a maintenance worker. *See Merchant Police Report*, Gov’t Ex. 4 at 1–2, ECF No. 36-3. Merchant noticed all of these signs as she and Raes addressed the issue of towing Soderman’s car.

Because the officers were still working to address Soderman’s suspended license, the questions they asked Soderman about drug trafficking did not unlawfully extend the duration of the traffic stop. Even if the officers’ questions about transporting drugs extended the stop, the officers had reasonable, articulable suspicion of drug trafficking and asked questions to confirm or dispel those suspicions, which is permissible under the Fourth Amendment. *See Berkemer*, 468 U.S. at 439.

## **2. The seizure and search of the car**

Soderman argues Merchant had neither a warrant nor probable cause to seize and search

his car, making the search unlawful. ECF No. 24-1 at 11. The Government puts forth several reasons the seizure and search of Soderman's car was lawful. ECF No. 32 at 8–11. The Court need not consider all of the Government's proffered justifications for the seizure and search, including the *Leon* good faith exception, because Merchant's actions were lawful under the automobile exception.

"For constitutional purposes, [there is] no difference between on one hand seizing and holding a car before presenting a probable cause issue to a magistrate and on the other hand carrying out an immediate search without a warrant. Given probable cause to search, either course is reasonable under the Fourth Amendment." *Chambers v. Maroney*, 399 U.S. 42, 52 (1970). "[W]hen the automobile exception applies, the vehicle need not be immediately searched." *United States v. Castaneda*, 438 F.3d 891, 894 (8th Cir. 2006). "[W]arrantless searches of vehicles by state officers have been sustained in cases in which the possibilities of the vehicle's being removed or evidence in it destroyed were remote, if not nonexistent." *Cady v. Dombrowski*, 413 U.S. 433, 441–42 (1973).

Based on the totality of circumstances, there was probable cause to search Soderman's car. "Probable cause is a fluid concept that focuses on 'the factual and practical considerations of everyday life on which reasonable and prudent men, not legal technicians, act.'" *United States v. Colbert*, 605 F.3d 573, 576 (8th Cir. 2010) (quoting *Illinois v. Gates*, 462 U.S. 213, 231 (1983)). Soderman's father told Merchant that Soderman had a history of drug trafficking. There was a large amount of cash in Soderman's wallet. *Cf. Flora v. Sw. Iowa Narcotics Enf't Task Force*, 292 F. Supp. 3d 875, 897 (S.D. Iowa 2018) (finding officers had probable cause to arrest the defendant because a large amount of cash stowed in a vehicle indicated drug trafficking). Soderman stated he had used marijuana earlier that day. Merchant and Raes observed that Soderman had an unkempt appearance and it seemed like he had

not showered recently. They also noticed Soderman had aftermarket wires in the backseat of his car, possibly indicating the vehicle had been manipulated to store drugs. The car also contained energy drinks and snacks, suggesting Soderman had not stopped during his journey. *Cf. United States v. Cortez-Palomino*, 438 F.3d 910, 913 (8th Cir. 2006) (finding probable cause to search when officers saw large packages wrapped in cellphone in truck and smelled a masking agent). Soderman was also adamant his car not be impounded locally and was insistent he travel with his car to Minnesota because he was on his way to visit his terminally ill stepmother — even though his father told Merchant he did not know Soderman was on his way. *Cf. United States v. Ameling*, 328 F.3d 443, 449 (8th Cir. 2003) (“[A]pparently false statements and inconsistent stories were sufficient to give the officers probable cause that the defendants were involved in criminal conduct.”). Based on these circumstances, a reasonable person could believe there was a fair probability that contraband could be found in Soderman’s car. *See Murillo-Salgado*, 854 F.3d at 418.

Merchant’s decision to apply for a warrant does not undermine the existence of probable cause.<sup>1</sup> A warrantless search of automobile is lawful when the car is initially seized, or at a later time. *Castaneda*, 438 F.3d at 894. That Merchant could articulate her reasons for probable cause in her affidavit for the warrant application supports the conclusion that the automobile exception applies. *See* ECF No. 36-1 at 1–5. Judge Fagan’s approval of Merchant’s warrant application

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<sup>1</sup> No warrant was actually issued — despite the judge’s probable cause determination. While there was probable cause to search Soderman’s car and the automobile exception applied, applying for a warrant was a prudent course of action: “[T]he informed and deliberate determinations of magistrates empowered to issue warrants . . . are to be preferred over the hurried actions of officers.” *United States v. Ventresca*, 380 U.S. 102, 105–106 (1965) (omission in original) (quoting *Aguilar v. Texas*, 378 U.S. 108, 110 (1964)); *see also United States v. Goff*, 449 F.3d 884, 886 (8th Cir. 2006) (“In light of the preference for warrants, we give great deference to the magistrate judge’s determination of probable cause.”).

further demonstrates there was probable cause to search Soderman's car.

**B. Fifth Amendment: Questioning During Traffic Stop**

Finally, Soderman moves to suppress the statements he made during the traffic stop. Soderman argues he was in custody because Raes told him he was detained and because he was later released, demonstrating his prior custody. ECF No. 24-1 at 10. Soderman asserts all statements after the "initial questioning for identification and warrants" should be suppressed because he was not read his *Miranda* rights. *Id.* The Government responds *Miranda* warnings were not necessary because Soderman was not in custody during this temporary, investigatory stop. ECF No. 32 at 11–12.

*Miranda* warnings are required before custodial interrogations. In general, a suspect is not in custody during a routine traffic stop. *Berkemer*, 468 U.S. at 440 ("[S]imilar to a *Terry* stop, [t]he . . . noncoercive aspect of ordinary traffic stops prompts us to hold that persons temporarily detained pursuant to such stops are not 'in custody' for the purposes of *Miranda*."); *United States v. McGauley*, 786 F.2d 888, 890 (8th Cir. 1986) ("No *Miranda* warning is necessary for persons detained for a *Terry* stop.").

Roadside questioning "to determine [the detainee's] identity and to try to obtain information confirming or dispelling the officer's suspicions" does not require *Miranda* warnings. *Berkemer*, 468 U.S. at 439. But "[i]f a motorist who has been detained pursuant to a traffic stop thereafter is subjected to treatment that renders him 'in custody' for practical purposes, he will be entitled to the full panoply of protections prescribed by *Miranda*." *Id.* at 440; *see also United States v. Pelayo-Ruelas*, 345 F.3d 589, 593 (8th Cir. 2003) (finding a suspect was not in custody when asked to step out of his car and comply with a pat down).

The Court must determine if Soderman's freedom to leave was restricted beyond what is expected during a traffic stop, such that Soderman was in custody. *See Mathiason*,

429 U.S. at 495; *see also Berkemer*, 468 U.S. at 436 (“It must be acknowledged at the outset that a traffic stop significantly curtails the ‘freedom of action’ of the driver . . . of the detained vehicle.”).

Here, Soderman was not formally arrested. Raes asked Soderman to sit in his patrol car and Soderman complied. *Cf. Jones*, 269 F.3d at 924 (finding that an officer asking a suspect to sit in a patrol car was permissible during an investigatory stop). Soderman asked if he was detained several times throughout his interaction with Raes and Merchant. At one point, Raes responded to Soderman that he was detained and that he could go to jail if he wanted to go because he was driving with a suspended license. At another point, Merchant told Soderman he was detained and could not get his phone back from her until Raes finished writing Soderman’s traffic tickets.

There are distinctions, however, between being detained and being in custody. An officer may detain an individual during a traffic stop in order to complete the investigation that necessitated the stop. *United States v. Coney*, 456 F.3d 850, 857 (8th Cir. 2006) (noting the “[officer] had the authority to check [defendant’s] license, and [his] van’s registration, ask [defendant] about his destination and purpose, and request that [defendant] sit inside the patrol car”). Such traffic stop detentions are temporary, and thus distinct from being in custody, during which a suspect does not know when he will be able to leave. “The Supreme Court has analogized roadside questioning during a traffic stop to a *Terry* stop, which allows an officer with reasonable suspicion to detain an individual in order to ask ‘a moderate number of questions . . . to try to obtain information confirming or dispelling the officer’s suspicions.’” *United States v. Rodriguez-Arreola*, 270 F.3d 611, 617 (8th Cir. 2001) (quoting *Berkemer*, 468 U.S. at 439).

Although Soderman was detained, he was not in custody. Soderman’s interaction with the officers consisted only of being asked questions aimed at confirming or dispelling the officers’

suspensions of criminal activity — first about a suspended license and then about possible drug trafficking. Throughout this questioning, Soderman was told the end of the interaction was imminent. Raes told Soderman he would drop him off at a gas station once Raes finished writing his tickets. At another point, Merchant also told Soderman that his car was detained but he was not, and that Soderman was free to leave after Raes finished writing his traffic tickets. “At no point during [the] interval was [Soderman] informed that his detention would not be temporary.” *Berkemer*, 468 U.S. at 441–42. Because Soderman was free to leave, he was not in custody. *Miranda* warnings were not required. Therefore, introduction of his statements would not violate his Fifth Amendment rights.


**V. CONCLUSION**

Raes and Merchant lawfully extended Soderman’s traffic stop because they had particularized suspicion of drug trafficking. Merchant had probable cause to search Soderman’s car and lawfully did so without a warrant. Soderman was not in custody when he was questioned. For the foregoing reasons, admission at trial of the evidence found in Soderman’s car and the statements Soderman made during the stop does not violate the Fourth and Fifth Amendments.

**IT IS ORDERED** that Defendant Chad Alan Soderman’s Motion to Suppress Evidence, ECF No. 24, is **DENIED**.

**IT IS SO ORDERED.**

Dated this 17th day of January, 2019.

  
REBECCA GOODGAME EBINGER  
UNITED STATES DISTRICT JUDGE



**APPENDIX E**  
**7-7-18 TROOPER RAES REPORT**  
**ENTERED 12-19-18**



## IOWA INCIDENT REPORT SUPPLEMENTAL

IOWA STATE PATROL - DIST 03

2025 HUNT AVE.

COUNCIL BLUFFS, IA 51503

(712) 328-8001



nc030102

CASE INFORMATION	Case Number	Date of This Report		County in which Incident Occurred	
	2018017739	07/07/2018		POTTAWATTAMIE - 78	
	ORI Number				
	COUNCIL BLUFFS POLICE DEPARTMENT - IA0780100				
	Date of Original Occurrence		Type of Offense		
07/07/2018		DRUG TRAFFICKING			
Name - Last		First	Middle	Suffix	
SODERMAN		CHAD			
Clearance Classification		Investigative Status			
<input type="checkbox"/> Unfounded <input type="checkbox"/> Exceptionally Cleared <input checked="" type="checkbox"/> Cleared by Arrest		<input checked="" type="checkbox"/> Open <input type="checkbox"/> Closed <input type="checkbox"/> Suspended			

## Narrative

On 07/07/2018 I, Trooper Matthew Raes #120 was routine patrol in Pottawattamie County, Iowa. At around 07:25 hours I observed a black Saturn that was operating eastbound around the 5 mile marker of Interstate 80. The vehicle was in the left lane, passing other vehicles and I observed it was traveling above the posted speed limit. I activated my front radar and confirmed that the vehicle was speeding. The vehicle was traveling at 72 miles per hour in a posted 55 MPH zone. I then caught up to the vehicle. The driver (only occupant) of the vehicle was a white male. I could not see if the driver was wearing his seat belt so I pulled along side the vehicle. As I was doing so, the driver started to pat the steering wheel and was looking straight forward. He did not look over at me. I then got behind the vehicle and activated my emergency lights to perform a traffic stop. The vehicle pulled over to the right shoulder.

I approached the passenger side of the vehicle. As I was walking up to the vehicle I could see the driver lean over and hand me his Driver's license, registration and current proof of insurance. The driver, later identified as CHAD SODERMAN [REDACTED] was breathing heavy as I was at the passenger window. I advised that I was stopping him for speeding. He was visibly nervous his hands were shaking. He said that he thought that he was going 70. He said that he did not know the speed limit and said that he did not see the sign. I asked the driver to come back to my vehicle for enforcement action. I told him to come back to my passenger seat. The driver admitted to having pepper spray on his key chain so I asked him to leave the keys in the vehicle in the center console for my safety. I observed a red bull, and multiple mountain dew's in the front of the vehicle. I also observed multiple snacks that were in the vehicle. I observed two big bags in the back seat of the vehicle.

The driver walked back to the passenger side of my vehicle. After moving my stuff out of the passenger seat I observed SODERMAN to still be standing by the vehicle. I locked and then unlocked the doors. I also motioned him with my hand to get inside of the vehicle. He then opened my passenger door and leaned in, staying outside of the vehicle. I told the driver to get in the vehicle and this time, he sat down on the passenger seat and left one leg outside of the vehicle, not closing the door. Again I asked him to get inside on my vehicle. It appeared Soderman was distancing himself from me and also from getting inside of the vehicle. He said that he wasn't used to sitting in Police cars. He continued to wear his sunglasses. I then observed that he brought his wallet back with him. The wallet had a large amount of money in it and looked as if it would not fold properly because of all the money that was in it. I asked how much money he had in his wallet. He said that how much money he had in his wallet was irrelevant. I told him that I was making small talk with him and he said that he was sorry and that he feels like he is being interrogated. I observed him to have strong body odor and his clothes were dirty. He said that he always has his paperwork ready to go and that he has his vans information ready to go as well. He then continued and put out his information from his wallet about his van and tried to show it to me. He then randomly said that he has not got a ticket in a long time. He also told me that everything on his license and paperwork is "correct and valid". I ran him through dispatch. He came back with a suspended driver's license. He said "that's impossible". He said that he always pays it. He continued and said that he is going to show me that he pays the child support. He continued into his mobile banking app. He again said that it was wrong (about the license). He kept repeating that it is impossible to have a suspended license. He said that he pays it every single month and that he has never missed a month. He told me how much he had to pay. He showed me a check that he paid for child support on his phone for the last two months. He was holding his phone up with a check from 06/05/2018. He then asked me if I didn't care about his payments. He continued to say it was impossible. I requested a K9 to come to my location but Pottawattamie County Sheriff's office and Council Bluffs police department had no K9's available. The driver was very argumentative about his driver's license status. I explained to him that I could do nothing about that today and I have to go off of what dispatch tells me. He was breathing heavy again. He continued to show me his bank statements and now showed me a payment form April. I asked if he knew anyone in Council Bluffs, since he didn't have a license. He said that he could have someone that could pick him up. He then immediately started arguing his driver's license status. He said he was "begging me" to listen to him about it. He was shaking his head and then continued to repeat that it was impossible for him to have a suspended license and that he pays child support every month. I could see his neck was very tense. He now told me that he could show me every payment for the last 10 years. He also wanted to call his child support worker. Once again I told him I did not want to see anymore payments and he became apologetic. Then again, he started saying that it "can't be right". He was moving his hands, shaking his head and was sighing. I once again asked if he knew anyone close to come pick him up. I asked dispatch if another Trooper could call me at this point. He began stuttering over his words. He then said he knew someone in Shakopee (Minnesota). This would be 365 miles away from our location and approximately 5 hours and 16 minutes away. He asked isn't Shakopee right there? Then he corrected himself and said that it was in Minnesota. He then volunteered to tow his own vehicle to his house and that he would pay for it and ride with the tow truck driver. He seemed very nervous and was giving options that were not feasible and did not make sense. I asked if he was going to tow it back to Colorado (His house) and he said that instead he would tow it to Minnesota to his dad's house. He was very talkative and talking fast at this point. He said that he would pay for the tow himself again. He now began to talk over me when I was explaining the cost of the tow truck to Minnesota. He was very talkative still. He said that paying the whole bill would be better than being stuck in Iowa. He then again mentioned that he was going to visit his mom who has brain and lung cancer and said that she was dying. He was breathing heavy and shaking his head. He said that he would be stranded if I towed his car. I informed him I wouldn't leave him stranded and that I could bring him to a gas station. He started laughing at this point. I didn't understand why he would be laughing at that. He then said that bringing him to a gas station would be no different then leaving him on the side of the road. He was becoming argumentative and said that he had insurance on the vehicle, so that he shouldn't be towed. I then informed him that he also needed a license to be driving. He said that I was right and again started stuttering. He said that he didn't want me to tow his car because he had all of his clothes in there. I then asked if he had a lot of clothes in his car and he said that he didn't and that he had two bags. I then asked what was in the trunk.

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Soderman Appendix E1

because I saw the bags taking up the whole back seat of the vehicle. He said that he works apartment maintenance. He stuttered while saying that. He also again began to breath heavy and move his hands more then he was previously while talking. He said that he brought the tools because his dad always had jobs for him to do. He then began talking about his driver's license status again. He got a text on his phone and quickly told me that it was his girlfriend. He then asked if he could take a selfie with me to send to his girlfriend. I explained I'd rather have him take a picture of my car rather than me. He said that he understands, and he wouldn't want his picture taken either. He also then randomly told me that his girlfriend was mad that he going to Minnesota because she thought that he was going to sleep with a lot of girls.

He began arguing with me about not letting me tow his vehicle himself. He said that there is no reason that can't tow it himself. I was going to make a phone call and he wanted to exit the car and listen to my phone call. He then asked if he was being detained. Due to him becoming more argumentative with me, I then decided to check him for weapons. He said that he would rather I didn't check him for weapons. But for officer safety reasons I checked him for weapons. No weapons were located on his person. After getting back into my patrol vehicle he said that he still didn't understand his license status. He now said that he maybe missed one or two payments over the years. He now gave another option of what to do with the vehicle. He wanted to tow it to the Minnesota border, after I just explained how far away Minnesota was from our location. He then said he was not trying to con me in anyway. He told me that his Dad and Sue would come down to our location right now and that it wouldn't be a problem. He now was saying that his parents would get in there car this very, second and would come down there, without even talking to them first.

While I was out of the vehicle he called Sue and told her that Her and his dad had to come to Iowa right now to pick him up. He was talking very fast and kept repeating, right now. He also called a tow truck on his own, without us requesting him to. He called and asked for a tow truck and was asking how long it took. He thought he was on Intrastate 35. He asked for the tow truck driver to take him to the border of Iowa and Minnesota, which the tow truck driver informed him would not be possible.

Officer Merchant #760 arrived on scene to assist. He told Officer Merchant he called his own tow truck already. He was talking to them as we came back to the vehicle. He again mentioned that his Dad's wife has brain and lung cancer. He then told Officer Merchant that she is the one coming to pick up the vehicle, even though he told me before that, that she was dying. He said that she got out of the Hospital three days ago. He now said that she had a respiratory "thing". While saying that he was stuttering and paused. He also said she had a staff infection. He said they were on the way right now to come pick up the vehicle. Officer Merchant spoke with his Dad, Terry. I told him that we might want to tow it, because he wouldn't be safe sitting on the shoulder. I said he can't park it on the grass because of the possibility of fires as well. He said that we were in Minnesota, not Colorado. I corrected him and reminded him that we were in Iowa. He now just wanted to wait with the vehicle and tow it. After saying this and telling him we can't do that because we would get 911 calls on him, he now wanted to tow it himself. Instead of wanting it towed to the border, he now wanted to tow it himself to the gas station. He asked to go up to his vehicle for a drink. I told him I would go grab one for him. He offered me a Mountain Dew. He admitted to having dry mouth and saying that he was thirsty.

I was talking to Officer Merchant outside of the vehicle. Officer Merchant told me that his dad did not know that he was coming up to Minnesota today. While speaking with Officer Merchant he was looking at us in the mirror. Officer Merchant began talking to him again. He said that he was insulted by all of this. Officer Merchant began talking to him and he began rubbing my dash. He also leaned forward and became defensive. He then told us that all he was doing was going to visit his Grandma, but then corrected it to going to visit his stepmom.

He once again brought up his driver's license status. Now he said that he didn't have this trip planned with his dad to come up. He said that his dad said that "it didn't look good" for his stepmom. He said that he had to finish up work and then he went and that he was still wearing his work clothes from when he last worked. He became very argumentative with Officer Merchant and talked over her multiple times. Officer Merchant asked for consent to search the very and quickly, and loudly he said no. He then tried to change the subject and bring up his license again. He now said that he thought he was going to throw up. I observed a Marijuana leaf tattooed on his back. Officer Merchant again asked if there was anything in the car and he said that his parents would not approve of that. He said that he denied the warrant because he has personal items in there, including sex toys. He also randomly thanks me for getting him the mountain dew from his car. He said that he wants to have his car towed to a gas station. I asked what he would then do if they don't him there. He said that would get it towed to a different gas station. I once again mentioned that he has a lot of money in his wallet and then he told me he also had a lot of money that was in his vehicle too because he was paid \$50 an hour.

I stepped outside of the vehicle and spoke with Officer Merchant.

Once again, he said that he was just trying to get to his stepmom and see her before she wasn't here anymore. Officer Merchant was talking to him and he said that he wanted to step outside and have a cigarette. Officer Merchant then told him that there is a lot of things that a pointing to something that we don't normally run into. He said that he would agree with that. He became defensive and became agitated and said he wanted to go see his "fucking" stepmom. He was becoming more agitated and put his head back on his seat and closed his eyes. Officer Kaita Merchant said that she was going to call her Sergeant. He said that he doesn't blame her that she is just doing her job. He said that if we towed and got a search warrant and we didn't even find anything then maybe he wouldn't have to pay for the tow. She asked if that's what he wanted to do and he quickly changed it and didn't want to do that anymore. He said that we should seize his car and get the search warrant and he would cry on the side of the road.


As soon as Officer Merchant closed the door and he said that what she was doing is illegal. He admitted to her being able to see that she is upset. He now admitted to smoking Marijuana in the vehicle. He admitted to smoking Marijuana in the vehicle and asked how he would "beat" that. He said that the dog would smell it and that he would feel so utterly helpless. He said he gave up hard drugs, but not Marijuana.

Officer Merchant told him that she was going to seize the vehicle and apply for a search warrant. I issued him a citation for driving without a valid driver's license and for speeding. He talked over me as I was trying to explain the citations. He asked multiple times to get stuff out of the vehicle. He wanted a case number for his incident. Officer Merchant went to go write it down and I told him he could now smoke his cigarette. The all action tow truck that he called showed up on the scene. We informed him that we did not call him and that we had a different tow truck en route. He was released and walked eastbound along Interstate 80.

Arrow tow truck arrived on the scene. The doors, hood and trunk all had evidence tags placed over them and were initialed by Officer Merchant. They took possession of the vehicle.

Later in the day I was contacted by Officer Merchant that she got a search warrant for the vehicle. I was told that narcotics and a gun were located inside of the vehicle. At around 14:20 hours I was in the area of Underwood. I knew that the male was fast walking eastbound on Interstate 80. I located him at the Motel in Underwood. I waited for backup from a Pottawattamie County Sheriff's deputy. I made contact with the male and placed him under arrest at around 14:38. He had rocks in his pocket and said that some use the rocks he found for smoking but not him. He now told a deputy that he was self employed. I read him his Miranda warning at 14:44 hours. I transported him to the Pottawattamie County Jail. He told me that he ordered an Uber and that the driver was close. Because of this, I let him answer his phone and allowed him to tell the driver that she no longer had to wait for him. He asked what her probable cause for the search warrant was and I explained that it will be on the search warrant, even though Officer Merchant had already explained that to him. He then asked if Officer Merchant was sleeping with the judge. I told him that wasn't an appropriate question. He then said that it is a valid question. He then talked to his brother on his phone. He told him that he was being arrested for "guns and drugs". He told me if he goes to jail today, there is nothing that he can do (about talking with investigators). He then randomly said "I don't run drugs" and I told him I didn't say he did. He said that he was just saying. He also said that "whatever happened today" he said that he works everyday and that he works hard. He said he is so torn right now, I asked him about what and he said that he couldn't answer that question. He also asked if we had been watching him all day.

We arrived at the Pottawattamie County Jail. He was booked into the Pottawattamie County Jail and charged by the Council Bluffs Police Department.

<b>O F F I C E R</b>	Complainant/Reporting Party (Signature)	
		
	Reporting Officer <b>RAES M</b>	Badge Number <b>120</b>
	Assisting Officer / Administrative Reviewer	Badge Number
	Supervisor	Badge Number
Incident Assigned to: <b>OFFICER MERCHANT CBPD</b>		

**APPENDIX F**  
**7-7-18 BACKUP OFFICER MERCHANT REPORT**  
**ENTERED 12-19-18**

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**GOVERNMENT  
EXHIBIT**  
SOPRANO  
MAY 1964  
10/1/64

C A S E  I N F O	Case Number 18-028631		Date of This Report 7/7/2018		County in which Incident Occurred POTTAWATTAMIE - 78	
	ORI Number COUNCIL BLUFFS POLICE DEPARTMENT - IA0780100					
	Date of Original Occurrence 7/7/2018				Type of Offense INTENT TO DISTRIBUTE	
	Name - Last SODERMAN		First CHAD		Middle ALAN	Suffix
Clearance Classification <input type="checkbox"/> Unfounded <input type="checkbox"/> Exceptionally Cleared <input checked="" type="checkbox"/> Cleared by Arrest						Investigative Status <input type="checkbox"/> Open <input checked="" type="checkbox"/> Closed <input type="checkbox"/> Suspended

After speaking with TERRY I returned to SODERMAN and explained there was concern he was possibly transporting narcotics. I asked if there was any illegal items in the vehicle and he stated there was not. Every time I brought up drugs to SODERMAN he immediately changed the subject and began talking about his license suspension. From my training and experience I know this is a tactic used by suspects to deter law enforcement from asking further questions about topics that are uncomfortable. SODERMAN then asked for his phone back. I stated to SODERMAN that he was now being detained and could not have his phone at that time until I had completed my investigation.

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18-028631

I returned to SODERMAN's vehicle and looked through the windows to see what I could observe in plain view. On the front passenger seat there was a six pack of Mountain Dew energy drinks. From my training and experience I know that subjects transporting illegal narcotics often times have high caffeinated energy drinks in order to keep them awake during long drives. I also observed a package on the passenger floorboard which contained a loaf of bread and other snacks. This is also often common for drivers transporting to have food in their vehicle to lessen the amount of "stop" time. Lastly, I observed 2 aftermarket wires running on the floor of the driver's side. After market wires are often associated with vehicle hides used to conceal illicit drugs during transport.

I returned to SODERMAN and stated I was now even more concerned after my observations of the inside of the vehicle that he may be transporting drugs. He stated that he was a drug user at one point, but had been "clean" for years. While speaking with SODERMAN he was moving around in the front seat, scratching his head, rubbing his neck and fidgeting. From my training and experience I know that often times subjects who are experiencing unusually high levels of anxiety will unconsciously move, stretch or pace in order to relieve their stress levels. I asked SODERMAN where he obtained the large amount of cash in his possession. From my training and experience I know that it is common for subjects transporting narcotics to make multiple "drops" on their trip in which payment is made in large sums of cash.

SODERMAN stated he worked for a property management company and made \$50.00 hr. I asked what he did for the company and he stated he fixed up the rental properties for new renters. I found this hourly wage to be inconsistent with my knowledge of what the average employee makes in this line of work. I stated my concern to SODERMAN and he then changed his story and stated he owned a company, but worked for a rental company. I asked SODERMAN if he had a business card for his company and he stated he did not. SODERMAN asked multiple times to smoke a cigarette as well. From my training and experience I know this behavior is indicative of those subjects experiencing high levels of anxiety. Throughout my interaction with SODERMAN he became increasing nervous and agitated.

I then stated to SODERMAN that I would like to make sure there was nothing illegal in his vehicle and asked for his consent to search. He stated he did not consent to a search and didn't know why I would be asking. He stated he was just driving to see his step-mother. He stated he left work last night and was now driving to Minnesota. He stated he hadn't changed from work the previous day. It was clear from his unkempt appearance and body odor that he had not changed or showered in some time. This also did not make sense to me because according to SODERMAN he had all night and this morning to shower or change his clothes and had not. From my training and experience I know that those transporting narcotics often times try to lessen their travel time by staying in the same clothing and not stopping for sleep, food or showers.

I stated to SODERMAN that I believed I had enough to seize his vehicle and obtain a search warrant. I wanted to provide him one last opportunity to consent to a search so that his vehicle would not be impounded and his sick step-mother would not have to travel a great distance to come pick him up. SODERMAN still refused a consent search. I told SODERMAN he was free to go after being issued several traffic citations by Tr. RAES.

Based on the suspicious activity, the unusual behavior, the nervousness of SODERMAN, the inconsistent stories, his admission of recent drug use, his father's statements and the signs consistent with transportation of illicit drugs I believed there was probable cause to seize the vehicle and apply for a search warrant. As a result I called Arrow Towing who responded to my location. The vehicle was secured and sealed with evidence tape for integrity and towed to Arrow's impound lot.

I then applied for a search warrant for the vehicle, a green 2002 Saturn SL2 bearing Colorado Registration 445WDO (VIN 1G8ZK52752Z205542) which was present to The Honorable Judge FAGAN. The search warrant was approved and was executed at approximately 1215 pm in the Arrow Towing impound garage.

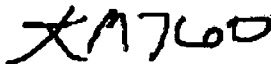
During the search of the vehicle a number of illegal items were located in the rear trunk of the vehicle. The items included approximately 1.4 pound of crystal methamphetamine, a Keltec 9mm hand gun with 3 loaded magazines, over a pound of marijuana, 20+ watches individually packaged and a multitude of other drug paraphernalia items.

After executing the warrant I left a copy of the inventory sheet and warrant in the vehicle. The items seized were transported back to the station where they were placed into evidence. A short time later I was notified by Tr. RAES that he had located SODERMAN on I80. Based on the evidence located in the vehicle I requested Tr. RAES arrest SODERMAN and transport him to Pottawattamie County Corrections. I contacted Sgt. RADFORD who stated he would have a member of VICE speak with SODERMAN on Monday if he was willing to talk about the incident.

I responded to Corrections and processed SODERMAN where he was held with No Bond. I seized \$3417.00 in cash from his wallet as well as his cell phone. The money was counted by Sgt. Jill KNOTEK as well. These items were then entered into evidence.

Lastly, Arrow Towing was contacted and told SODERMAN'S vehicle could be released from the police hold.

EOR

<b>O F F I C E R</b>	Complainant/Reporting Party (Signature)	
		
	Reporting Officer <b>MERCHANT KAILA</b>	Badge Number <b>760</b>
	Assisting Officer / Administrative Reviewer	Badge Number
	Supervisor <b>KNOTEK JILLIAN</b>	Badge Number <b>708</b>
Incident Assigned to:		